



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,260	06/15/2005	Jan Haisma	NL02 1443 US1	7528
65913	7550	12/18/2008	EXAMINER	
NXP, B.V. NXP INTELLECTUAL PROPERTY DEPARTMENT M/S41-SJ 1109 MCKAY DRIVE SAN JOSE, CA 95131			LANGMAN, JONATHAN C	
			ART UNIT	PAPER NUMBER
			1794	
			NOTIFICATION DATE	DELIVERY MODE
			12/18/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

Response to Arguments

The applicant argues that support for claim 22 can be found in the specification where the second material is described as silicon oxide. The Examiner agrees that silicon oxide is **one** example where the second material is an oxide of the carrier, however the applicant is not entitled to all possible combinations of carrier material oxides. The claims set forth no materials for the carrier material. Therefore any material, a polymer, a metal, any material may be the carrier material, therefore the applicant is not supported for the recitation as currently presented. For reasons of record set forth in the Final Office Action dated October 3, 2008, the rejection is maintained.

The applicant traverses the rejection of claim 27, in which the applicant submits that paragraph [0014] teaches places where stress is most likely to occur. [0014] and the instant claims are to entirely different concepts. The claims teach placing structures where stress is most likely to occur. [0014] teaches rounding corners of the structures, so that stress of the intermediate structures may be relieved. For reasons of record set forth in the Final Office Action dated October 3, 2008, the rejection is maintained. This argument is not persuasive to overcome the rejection.

The applicant argues that the Examiner relies upon inherency for the prior art to teach claimed stress relief function. The applicant argues that "such stress relief function is not inherent in the prior art where the dimensions and geometries of the structures do not allow stress induced dislocations in a structure to migrate to a free surface of the structure". This is merely an assertion and not a persuasive argument.

The applicant has not persuasively shown that the prior art structures will not possess the instantly claimed stress relief. Since the prior art teaches similar structures and materials as presently claimed, it is the Examiners position that the prior art structures will inherently have the same stress relief as instantly claimed. It has been held that where the claimed and prior art products are identical or substantially identical in structure or are produced by identical or a substantially identical processes, a *prima facie* case of either anticipation or obviousness will be considered to have been established over functional limitations that stem from the claimed structure. *In re Best*, 195 USPQ 430, 433 (CCPA 1977), *In re Spada*, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990). The ***prima facie*** case can be rebutted by evidence showing that the prior art products do not necessarily possess the characteristics of the claimed products. *In re Best*, 195 USPQ 430, 433 (CCPA 1977).

The applicant argues that the final product of the prior art does not teach the same structure as instantly claimed. However it is the Examiners position that the intermediate product of the prior art teachings reads on the claims, and therefore the rejections of record are maintained. The applicant has not argued against the intermediary structures. The structure as presently claimed is realized by the intermediate structures of the prior art.

JCL

/Timothy M. Speer/
Primary Examiner
Art Unit 1794